

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUAN MANUEL CASTRO,

Petitioner,

vs.

D. G. ADAMS, Warden,

Respondent.

No. C 08-04649 JW (PR)

ORDER OF TRANSFER

Petitioner, a California prisoner incarcerated at Corcoran State Prison, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his state conviction for robbery and felony murder, among other crimes, which resulted in a sentence of 25 years-to-life without the possibility of parole.

A petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court of a state that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. See 28 U.S.C. § 2241(d). Each of such districts shall have concurrent jurisdiction to entertain the petition; however, the district court for the district where the petition is filed may transfer the petition to the other district in the furtherance of justice. See id. The petition indicates that petitioner was convicted in San Diego


County, which lies within the venue of the Southern District of California, and that he is confined in Corcoran (Kings County), which lies within the venue of the Eastern District of California. See 28 U.S.C. 84(b).

Since the petition is directed to the manner in which a sentence is being executed, the district of confinement is the preferable forum. See Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989) (“The proper forum to challenge the execution of a sentence is the district where the prisoner is confined.”); see also Habeas L.R. 2254-3(b) (providing for transfer of venue to district of confinement “if the petition is challenging the manner in which the sentence is being executed”). Because petitioner is confined in the Eastern District, the petition will be transferred to that district.

Accordingly, the above-titled action is hereby TRANSFERRED to the United States District Court for the Eastern District of California. See 28 U.S.C. §§ 1404(a), 2241(d); Habeas L.R. 2254-3. In light of this transfer, the Court will defer to the Eastern District with respect to petitioner’s motion for leave to proceed in forma pauperis. (Docket No. 2.)

The clerk shall transfer this matter and terminate any pending motions.

DATED: 1/6/2009


JAMES WARE
United States District Judge

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Case Number: CV08-04649 JW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 1/7/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Juan Manuel Castro P-76819
Corcoran State Prison
P. O. Box 3476
Corcoran, Ca 93212

Dated: 1/7/2009

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk